

Chapter 3.04 - PREFERENCE FOR LOCAL VENDORS IN CONTRACTING FOR EQUIPMENT, MATERIALS,
SUPPLIES AND SERVICES ALLOWED

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3.04.010 - Findings and purpose.

Local businesses that provide equipment, materials, supplies and services within the City of Colfax are at a competitive disadvantage because doing business within the city is more expensive than doing business in a more urban environment. The lack of demand for equipment, materials and supplies from city-based businesses inhibits the availability of volume discounts and generally results in higher costs and, therefore, higher bids from local businesses who respond to requests for proposals for equipment, materials, supplies and services. The purpose of this chapter is to create a circumstance in which every local provider, as defined, will be able to effectively compete when responding to solicitations for proposals for equipment, materials, supplies and services and when otherwise contracting with the city.

(Ord. No. 510, 3-10-2010)

3.04.020 - Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

"Bidder" shall mean any person, including any corporation, partnership, limited liability company or similar business entity, that submits a response to a competitive invitation by the city for the purchase of equipment, materials, supplies or services.

"Bid" or "bids" shall include any competitive or other bid or proposal submitted at the invitation of the city for the purchase of equipment, materials, supplies or services.

"City" shall mean and refer to the City of Colfax.

"Eligible local provider" shall mean and refer to a local provider who is an otherwise responsible bidder and otherwise responsive to the city's invitation for bids or to the city's request for the provision of equipment, materials, supplies or services.

"Local provider" shall mean and refer to a supplier or provider of equipment, materials, supplies or services that meets all of the following criteria:

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- A. Has an established place of business within the city;
- B. Has a current city business license;
- C. Has paid all currently due business license fees and taxes; and
- D. Began doing business within the city at least one year prior to the city's inviting bids or quotations for the respective purchase.

"Responsible" shall mean a bidder's quality, fitness, and capacity to perform or otherwise meet the particular requirements of the contract, purchase order or request for quotations.

"Responsive" means a bidder's compliance with the instructions and requirements established by the city and set forth in the contract, purchase order or request for quotations.

(Ord. No. 510, 3-10-2010)

3.04.030 - Preference for local providers.

The provisions of this chapter and the local preference established pursuant to this chapter shall be applicable to the following types of purchases or contracts let in excess of five thousand dollars (\$5,000.00) and pursuant to either a formal or an informal bid:

- A. Purchases, orders or contracts for the purchase of supplies, materials and equipment; and
- B. Purchases or contracts for nonprofessional services.

(Ord. No. 510, 3-10-2010)

3.04.040 - Exceptions to preference for local providers.

The provisions of this chapter and the local preference established pursuant to this chapter shall not be applicable to the following types of purchases or contracts:

- A. Purchases or contracts for professional services;
- B. Public works activities performed by city employees or agents;
- C. Emergency purchases;
- D. Direct or sole purchases made by the city; and
- E. Purchases or contracts where legal constraints on the expenditure of funds prohibit the application of the local preference or those contracts funded by the federal or state government, including federal or state loan or grant funding, when such funding would be jeopardized by application of the local preference.

(Ord. No. 510, 3-10-2010)

3.04.050 - Reduction of bid by eligible local provider.

- A. In contracting for equipment, materials, supplies or services as specifically set forth in this chapter, the city shall grant preference to a local provider who submits a bid within ten (10) percent of the lowest responsible bidder and who is otherwise responsive and responsible to the invitation for bids. The preference shall allow the local provider the opportunity to reduce its bid by an amount up to ten (10) percent if the otherwise lowest responsive, responsible bid is submitted by other than an eligible local provider. In the event an eligible local provider reduces its bid pursuant to this section and results in that bidder having submitted a bid equal to or less than the amount of the lowest

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responsive, responsible bid, the eligible local provider shall be deemed to have provided the lowest responsive, responsible bid and shall be awarded the contract.

- B. The preference and opportunity to reduce the amount of the bid shall be provided first to the lowest eligible local provider and, if not accepted by such eligible local provider within five business days of the opening of the bids, then to each successive eligible local provider within ten (10) percent of the lowest responsive, responsible bid, in ascending order of the amount of the bids.
- C. The local provider shall certify under penalty of perjury, as a part of its bid and in a form and manner as required by the city, that the bidder qualifies as a local provider. The preference established in this chapter shall be waived if the certification does not appear on the respective bid.
- D. The application of a local preference as set forth in this chapter shall not exempt any eligible local provider to which a contract is let or awarded from having to pay all applicable federal, state or local sales tax or other taxes.

(Ord. No. 510, 3-10-2010)

3.04.060 - Penalty.

Any otherwise eligible local provider that submits false information to the city in an attempt to qualify for the bid reduction allowed pursuant to [section 3.04.050](#) shall be prohibited from contracting with the city for a period of one year. This penalty shall be in addition to any other penalty or punishment allowed by law.

(Ord. No. 510, 3-10-2010)

3.04.070 - Procurement policy.

The city manager, or the city manager's designee, shall draft a procurement policy to implement the intent of this chapter and establish procurement guidelines for the city. Upon approval thereof by the city council, the rules and regulations contained in the procurement policy shall have the same force and effect as this chapter. All provisions of the procurement policy shall be subject to modification by resolution of the city council.

(Ord. No. 510, 3-10-2010)